

Legal Services for the
Elderly in Queens



June 18, 2015

By ECF
The Honorable Pamela Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Clarice Pfeffer, Dulce Malagon, v New York City Department of Finance, et al.* Docket No. CV 15 3547
Ortansa Tomescu v. New York City Department of Finance, et al.
Docket No. CV 14 7216

Honorable Pamela Chen:

My office is one of the attorneys representing Plaintiffs Clarice Pfeffer and Dulce Malagon in the above entitled action just filed in the U.S. Eastern District against NYC Department of Finance (“DOF”) and also counsel for Plaintiff Ortansa Tomescu in the above entitled action. We respectfully request that you deem this case related under Local Rule 13 and in the interest of justice and efficiency to *Ortansa Tomescu v. New York City Department of Finance, et al.* currently pending before Judge Raymond J. Dearie.

Ortansa Tomescu receives benefits through New York City’s Rent Freeze Program (“RFP”) program. This benefit freezes the rents of lower income, eligible elderly and disabled individuals. Ms. Tomescu brought her action in December 2014 under the Americans with Disabilities Act and the Due Process Clause challenging DOF’s failure to implement meaningful policies, practices, and procedures to provide reasonable accommodations for individuals’ disabilities and its failure to provide an adequate policy and procedures for determining whether an individual has good cause for re-opening and revising an administrative determination.

On or about March 25, 2015 Ms. Tomescu filed her Amended Complaint adding class action allegations under Fed. R. Civ. P. Rule 23(a) and (b)(2)

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on behalf of herself and as a representative of a class of “All New York City residents with disabilities who are or will be eligible for the NYC Rent Freeze Program who have been, or will be denied the opportunity to receive RFP benefits to which they are entitled because the DOF fails and refuses to modify its policies, practices and activities to reasonably accommodate their disabilities”.

The parties have appeared before Magistrate Lois Bloom several times during the last six months on *Tomescu v. New York City Department of Finance*. It is likely that this matter will be settled and the matter dismissed as DOF has offered to provide Ms. Tomescu full individual relief only and Ms. Tomescu has accepted this offer in principal subject to a written agreement.

The Complaint filed on behalf of Ms. Pfeffer and Ms. Malagon raises the same exact claims and allegations against the same Defendant, DOF. The parties in Tomescu and their counsel have already undertaken discovery and settlement discussions that would be the same undertaken by Ms. Pfeffer and Ms. Malagon.

In addition the facts and events underlying these claims substantially overlap. Ms. Pfeffer and Ms. Malagon, like Ms. Tomescu, are seniors who have been receiving SCRIE benefits under the RFP program for a number of years. Each failed to timely recertify or provide documentation due to their disability. DOF treated each recipient the same by denying the individual an accommodation, directing them to reapply as an initial applicant and drastically reducing the benefits they receive. Each plaintiff faces loss of their home as a result. In the interest of time, efficiency and duplication of time and expense we request that the Court deem *Clarice Pfeffer, Dulce Malagon, v New York City Department of Finance, et al.* Docket No. CV 15 3547 related to *Ortansa Tomescu v. New York City Department of Finance, et al* Docket No. CV 14 7216.

Thank you for your consideration of this request.

Respectfully,



Donna Dougherty

cc: Louise Lippman (ECF)
Judge Raymond J Dearie (ECF and hand delivered)